

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>KAMARIA NELSON, as proposed</b>	:	<b>CIVIL ACTION NO. 1:23-CV-1030</b>
<b>Administrator of the Estate of Shaka</b>	:	
<b>Nelson,</b>	:	<b>(Judge Conner)</b>
	:	
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>PENNSYLVANIA DEPARTMENT OF</b>	:	
<b>CORRECTIONS, JOHN WETZEL,</b>	:	
<b>JOHN RIVELLO, JOEL KOEHLER,</b>	:	
<b>and JILL SPYKER,</b>	:	
	:	
<b>Defendants</b>	:	

## ORDER

AND NOW, this 26th day of January, 2024, upon consideration of the motion (Doc. 17) to dismiss plaintiff Kamaria Nelson's amended complaint (Doc. 14) pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6), filed by defendants the Pennsylvania Department of Corrections, John Wetzel, John Rivello, Joel Kohler, and Jill Spyker, and the parties' respective briefs in support thereof and in opposition thereto, and for the reasons set forth in the accompanying memorandum of today's date, it is hereby ORDERED that:

1. Defendants' motion (Doc. 17) to dismiss is GRANTED. Counts I, II, and III are DISMISSED without prejudice with respect to Wetzel and Rivello, and with prejudice with respect to the Pennsylvania Department of Corrections. Counts IV, V, and VI are DISMISSED with prejudice against all defendants.
2. Nelson is granted leave to file a second amended complaint within 21 days of the date of this order as set forth in the accompanying memorandum. In the absence of a timely filed second amended complaint, the above-captioned action shall proceed against Kohler, Spyker, and the John/Jane Doe defendants only.

3. Kohler and Spyker's deadline to respond to Counts I, II, and III of the amended complaint under Federal Rule of Civil Procedure 12(a)(4)(A) is DEFERRED for the duration of the 21-day amendment period set forth in paragraph 2 above.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner

United States District Judge

Middle District of Pennsylvania